Court No. 2

IN THE HIGH COURT OF UTTARANCHAL AT AINITAL.

First Appeal No. 1102 of 2001
(Old No.269 of 1996)

1. State of U.P. through Collector, Nainital
2. U.P. State Road Transport Corporation,
Through the Regional Manager, Tanakpur Region,
District Nainital,

..... Appellants

Versus

Jagat Singh Rawat S/o Shyam Singh,
R/o Tanakpur, Post Tanakpur, Tehsil Khatima, Distt. Nainital

.... Respondents

Sri U.P.S. Negi, Addl. Advocate General, learned counsel for Appellant No. 1
Sri Bhupendra Singh and Sri A.N. Sharma, Id. Counsel for Appellant No.2
Sri S.N. Babulkar, Sr. Advocate and Sri V.K. Bisht, Sr. Advocate, Id. Counsel for the respondent.

Date: August 29, 2006

Hon'ble P.C. Verma, J.
Hon'ble B.S. Verma,J.

This appeal has been preferred by the appellant under Section 54 of Land Acquisition Act (hereinafter will be referred to as the Act) against the judgment and award dated 30.5.1994 passed by Special Judge (Addl. District Judge) Nainital in Land Acquisition Reference No. 177 of 1990.

2. The appeal is liable to be allowed only on one ground that the land was acquired by the Government for UPSRTC and UPSRTC was not made party before the reference court in the year 1985 which is a necessary party as held by Hon'ble Apex Court in the case of ***"U.P. Avas Evam Vikas Parishad Vs. Smt. Gyan Devi (1995) Vol.2 SCC 221".*** Therefore, we set aside the order dated 30.5.1994 and remit the case back to the reference court

concerned to decide the reference afresh including the claim and interest if payable to the appellant from the date of possession by the State Government under the Defence of India Rules.

The payment already made to the land holders shall to be recovered till the award is not made by the District Judge afresh. The reference shall be decided within a period of six months from the date of receipt of this order.

The appeal is accordingly partly allowed. No order as to costs.

(B.S. Verma,J.) **(P.C. Verma,J.)**

Rajeev Dang